

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

Robert Harvie Payne,) C/A No. 6:13-cv-122 DCN KFM
)
Plaintiff,)
)
vs.)
)
DFC McKellar; SACDC, Chief Administrator;)
Al Cannon; Chas. Co.,)
)
Defendants.)
)

The above referenced case is before this court upon the magistrate judge's recommendation that plaintiff's motion to proceed *in forma pauperis* be denied.

This court is charged with conducting a de novo review of any portion of the magistrate judge's report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636(b)(1). However, absent prompt objection by a dissatisfied party, it appears that Congress did not intend for the district court to review the factual and legal conclusions of the magistrate judge. Thomas v Arn, 474 U.S. 140 (1985). Additionally, any party who fails to file timely, written objections to the magistrate judge's report pursuant to 28 U.S.C. § 636(b)(1) waives the right to raise those objections at the appellate court level. United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).¹ **No objections**

¹In Wright v. Collins, 766 F.2d 841 (4th Cir. 1985), the court held "that a pro se litigant must receive fair notification of the consequences of failure to object to a magistrate judge's report before such a procedural default will result in waiver of the right to appeal. The notice must be 'sufficiently understandable to one in appellant's circumstances fairly to appraise him of what is required.'" Id. at 846. Plaintiff was advised in a clear manner that his objections had to be filed within ten (10) days, and he received notice of the consequences at the appellate

have been filed to the magistrate judge's report and recommendation.

A de novo review of the record indicates that the magistrate judge's report accurately summarizes this case and the applicable law. Accordingly, the magistrate judge's report and recommendation is **AFFIRMED**, and plaintiff's motion to proceed *in forma pauperis* is **DENIED**.²

IT IS FURTHER ORDERED that plaintiff has fifteen (15) days from the date of this order to pay the filing fee of **THREE HUNDRED FIFTY (\$350.00) DOLLARS**. If plaintiff fails to timely pay the filing fee, the complaint will be dismissed without prejudice under the "three strikes" rule of 28 U.S.C. § 1915(g).

AND IT IS SO ORDERED.



David C. Norton
United States District Judge

April 5, 2013
Charleston, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.

level of his failure to object to the magistrate judge's report.

²It should be noted that on March 14, 2013 the Report and Recommendation was mailed to plaintiff at the new address that he gave to the court on February 12, 2013. The Report and Recommendation was returned to the court as undeliverable on April 1, 2013. It is the duty of the plaintiff to keep the court updated on his most current address.